Application No. 10/813,788
Amendment dated August 31, 2007
Response to Office Action of June 02, 2007

Atty. Docket No. 6570P067
Examiner ORR, Henry W.
TC/A.U. 2176

REMARKS

Applicants respectfully request reconsideration of the above referenced patent application in view of the amendments and remarks set forth herein, and respectfully request that the Examiner withdraw all rejections. Claims 27, 28 and 31 have been amended. Claims 11-20 have been canceled. Claims 33-40 have been added. Thus, claims 1-10 and 21-40 are pending.

Claim Objections

The Office Action objects to claims 27-32 reciting "electronically accessible medium", alleging that such reciting is not supported in the specification. For at least the following reasons, Applicants traverse the above rejection.

Applicants amend the claims to replace references to "electronically accessible medium" with references to "computer accessible medium". These claim amendments are supported in the original disclosure at least by paragraph [00059] of the specification. Applicants submit that the claim amendments cure any alleged informalities cited in the Office Action. For at least the foregoing reasons, Applicants ask that the above objection to claims 27-32 be withdrawn.

35 U.S.C. §101 Rejections

The Office Action rejects claims 11-20 and 21-26 under 35 U.S.C. §101 as being directed toward non-statutory matter. More particularly, the Office Action alleges that the claims are directed to a process, machine, manufacture or composition of matter. Without agreeing as to the above characterizations in the Office Action, and in order to advance the application to allowability, Applicants cancel claims 11-20 herein, rendering moot the above objection as applied thereto. Applicants traverse the above rejection of remaining claims 21-26 for at least the following reasons.

Claims 21-26 include independent claim 21, which recites in a salient portion (emphasis added):

> "A system comprising:
>
> **a means for displaying** a hierarchical tree structure having one or more selectable tree nodes **in a graphical user interface**, each of the one or more tree nodes representing…"

Accordingly, Applicants submit that claim 21 is **not** directed to a graphical user interface, but to a **means for displaying** a particular type of hierarchical tree **in** a graphical user interface. In rejecting claim 21, the Office Action states (page 4, lines 9-13):

> 'Claim 21 recites a "**system**", and the "**means for**" language is interpreted to include a "**monitoring system graphical user interface**" from the specification. Thus, the recited "**monitoring system graphical user interface**" is comprised merely of computer software and is not a process, machine, a manufacture or a composition of matter.'

Here, the Office Action confuses a claim to a **means for displaying** a particular type of hierarchical tree in a graphical user interface (GUI) with a claim allegedly including **only** a (monitoring system) GUI. Even assuming, *arguendo*, that the means for **displaying** of claim 21 **includes** a GUI, which Applicants do not agree, the Office Action **improperly** concludes that claim 21 therefore includes **merely** a GUI. However, a claim including an element is not therefore **limited** to that element, and the Office Action **fails** to show how claim 21 includes **merely** the allegedly non-statutory GUI. Applicants respectfully submit (1) that a claim to a **means for displaying** a hierarchical tree structure in a GUI is **not** a claim reciting a mere GUI, and (2) that claim 21 includes a process, machine, a manufacture or a composition of matter.

An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof. 35 U.S.C. §112, ¶6. As set forth in M.P.E.P. §2106(II)(C), disclosure of the structure, material, or acts and their equivalents in the specification may be **express, implicit, or inherent**. USPTO

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personnel must attempt to correlate claimed means to elements set forth in the written description that perform the recited step or function. The written description includes the original **specification and the drawings** and USPTO personnel are to give the claimed means plus function limitations their **broadest reasonable interpretation** consistent with all corresponding structures or materials described in the specification and their equivalents including the manner in which the claimed functions are performed.

Applicants submit that the statutory structures and equivalents of a **means for displaying** a hierarchical tree structure in a GUI are **expressly, implicitly and/or inherently set forth** in the specification at least by the description of the monitor viewer 1750 of FIG. 17, the description of FIGS. 11-16, and paragraphs [00059], [00075], [00088] and [00099]. Accordingly, the **means for displaying** a hierarchical tree structure in a GUI recited in claim 21 is directed to a process, machine, a manufacture or a composition of matter that **satisfies** the requirements of 35 U.S.C. §101. For at least the foregoing reasons, Applicants request that the above 35 U.S.C. §101 rejection of claims 21-26 be withdrawn.

35 U.S.C. §103(a) Rejections

The Office Action rejects claims 1-5, 7, 11-14, 21-24 and 27-30 under §103(a) as being obvious in light of Hanchett et al., USPN 6,834,301 (*"Hanchett"*) in view of Melillo, US Pub. No. 2004/0003122A1 (*"Melillo"*). The Office Action rejects claims 6, 8, 9, 10, 15-20, 25, 26, 31 and 32 under §103(a) as being obvious in light of *Hanchett* in view of *Melillo* as cited and applied to claim 1, in view of Kekic et al., USPN 6,664,978 (*"Kekic"*). Claims 11-20 are canceled herein, rendering moot the above rejections as applied thereto. For at least the following reasons, Applicant respectfully traverses the above rejections as applied to the remaining claims.

35 U.S.C. §103(a) Rejection over *Hanchett* and *Melillo*

In rejecting claims 1-5, 7, 21-24 and 27-30, the Office Action cites column 4, lines 32-44 of *Hanchett*, alleging that it teaches, *inter alia*, a hierarchical tree structure

having one or more selectable tree nodes in a graphical user interface, each of the one or more tree nodes representing a resource of an application server. *Melillo* is alleged to disclose the management bean variously recited in the claims. To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *See* M.P.E.P. § 2143.03.

The above rejected claims include independent claims 1, 21, and 27. Currently amended independent claim 1 states in a salient portion (emphasis added):

> "...displaying a hierarchical tree structure having one or more selectable tree nodes in a graphical user interface, **each of the one or more tree nodes representing a resource of an application server**, wherein at least one of the tree nodes is a monitor service tree node, the monitor service tree node representing a monitor service of the application server;..."

Independent claims 21 and 27 variously recite similar limitations. In a previous response filed April 23, 2007, Applicants argued, *inter alia*, that any hierarchical network directory tree described in *Hanchett* is **only** disclosed as having nodes which represent **network devices**, and that *Hanchett* **fails** to disclose any hierarchical tree structure having one or more tree nodes representing a **resource of an application server**. *See* Abstract and col. 3, lines 52-56. In response to Applicants' previous arguments, the Office Action states (pg. 22, line 17 to pg. 23, line 2):

> 'Hanchett teaches a network administrator selecting an end node and displaying applications under management for that selected end node. Examples of applications under management by the network management system may include virus scanning software or other software products (see Hanchett col. 4 lines 32-52). Therefore, the nodes of the network directory tree do not **only** represent network devices. The nodes may be applications, which serve as a resource of a directory server ("database **application server**").'

Here, the Office Action assumes that "applications under management for that selected end node" means that the end nodes **represent** the applications. However, *Hanchett* does **not** teach or suggest that the end nodes **represent** a resource of an application server. Indeed, the very argument presented in the Office Action suggests that an end node in *Hanchett* **only represents** a device of a network of devices, and **not** an application **under management** by such a device, for example. More particularly, *Hanchett* **has to** "display

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applications under management for that selected end node" precisely **because** the end node does **not** itself represent said applications. Otherwise, such displaying of the application for that node would be **redundant** to the end node, where the end node itself is supposed to represent the application. The Office Action **fails** to address why *Hanchett* would display an application **under management** for a selected end node, if that end node **already** represented such an application.

Applicants submit that the displaying of an application under management for a selected end node can only mean that an end node **does not itself represent** the displayed application. The second sentence in the Abstract of *Hanchett* states that an end node corresponds to a **device** of the network of devices, and **nothing** in *Hanchett* discloses an end node **representing** anything **other than** such a device. For at least the foregoing reasons, *Hanchett* **fails** to disclose a hierarchical tree structure having one or more selectable tree nodes, each representing a resource of an application server. The Office Action does not offer *Melillo* as teaching or suggesting the hierarchical tree structure recited in the claims, and Applicants submit that *Melillo* **fails** to teach or suggest such a hierarchical tree structure. Accordingly, each of independent claims 1, 21 and 27 include at least one limitation which is non-obvious in light of *Hanchett* and *Melillo*. If an independent claim is non-obvious under 35 U.S.C. §103, then any claim depending therefrom is non-obvious. *See* M.P.E.P. §2143.03. For at least the foregoing reasons, Applicants request that the above 35 U.S.C. §103(a) rejection of claims 1-5, 7, 21-24 and 27-30 based on *Hanchett* and *Meilillo* be withdrawn.

35 U.S.C. §103(a) Rejection over *Hanchett*, *Melillo* and *Kekic*

In rejecting claims 6, 8-10, 25, 26, 31 and 32, the Office Action relies on the arguments presented for the 35 U.S.C. §103(a) rejection of independent claims 1, 11, 21 and 27 based on *Hanchett* and *Meilillo*. As previously discussed, *Hanchett* and *Meilillo* **fail** to teach or suggest at least one limitation recited in each of independent claims 1, 11, 21 and 27. More particularly, *Hanchett* and *Meilillo* fail to teach or suggest displaying a hierarchical tree structure having one or more selectable tree nodes in a graphical user

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interface, each of the one or more tree nodes representing **a resource of an application server**, as variously recited in the claims.

The Office Action offers *Kekic* as disclosing polling events, setting threshold values, displaying a history of monitor data, a table of monitor data, a configuration pop-up window and configuration options, as variously recited in the above rejected claims. However, *Kekic* is not offered as teaching or suggesting any of the claim elements which are non-obvious in view of *Hanchett* and *Melillo* alone. Applicants respectfully submit the hierarchical tree structure variously recited in claims 1, 21 and 27 – which is non-obvious in view of *Hanchett* and *Melillo* – remains non-obvious when further in view of *Kekic*. If an independent claim is non-obvious under 35 U.S.C. §103, then any claim depending therefrom is non-obvious. *See* M.P.E.P. §2143.03. For at least the foregoing reasons, Applicants request that the above 35 U.S.C. §103(a) rejection of claims 6, 8-10, 25, 26, 31 and 32 based on *Hanchett*, *Melillo* and *Kekic* be withdrawn.

New Claims

Applicant has added new claims 33-40, which variously depend from independent claim 21. It is Applicant's understanding that new claims 33-40 are allowable in view of the references cited in the Office Action, for at least the reasons discussed above with reference to independent claim 21. New claims 33-40 are supported in the original disclosure at least by original claims 11-20.

CONCLUSION

For at least the foregoing reasons, Applicants submit that the objections and rejections have been overcome. Therefore, claims 1-32 are in condition for allowance and such action is earnestly solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present application. Please charge any shortages and credit any overcharges to our Deposit Account number 02-2666.

Respectfully submitted,
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